



**Benton County Planning Board  
Public Hearing  
Technical Advisory Committee Meeting**

April 16, 2014

6:00 PM

Benton County Administration Building  
215 East Central Avenue, Bentonville AR

**Planning  
Board  
Approval:**

5/7/14

**Meeting Minutes**

**PUBLIC HEARING:**

**Call to Order:** The meeting was convened at 6:01 PM by Planning Board Chairman Ashley Tucker.

**Roll Call:** Jim Cole, Starr Leyva, Ken Knight, Rick Williams, Ron Homeyer, Ashley Tucker, Mark Curtis.

**Staff present:** Administrator of General Services - John Sudduth, County Planner - Taylor Reamer, and Senior County Planner - Mike McConnell. Planning Director - Rinkey Singh and Building Official - Glenn Tracy were absent.

**Public Present:** 3 members of the public: Terry Booth, Jim Ramsey, and Paul Walla. (See attached sign in sheet for additional information).

**Disposition of Minutes:** Mr. Knight moved to approve the April 2, 2014 Planning Board Meeting Minutes. The motion was seconded by Mr. Curtis. The motion carried 7-0.

**General Public Comment:** None

**Old Business:** None

**New Business:** None

Public Hearing adjourned at 6:03pm.

**TECHNICAL ADVISORY COMMITTEE**

**Call to Order:** 6:03pm

**Old Business:** None

**New Business:** None

**Other Business:** None

**STAFF UPDATES:**

**A. Administrative Approvals:**

**i. Medina Minor Subdivision**

- Tract split was initiated before the new regulations were in place; therefore no

health department approval was needed for the 3 parcel tract split each approximately 1.5 acres.

**ii. Rahm Minor Subdivision**

- Property line adjustment between 2 parcels of same owner.

**iii. Koscheski Minor Subdivision**

- Tract Split of 20 acres into 2 parcels both approximately 10 acres each.

**DISCUSSION ITEMS:**

**A. Planning Regulation Revisions**

**Chapter 4 Revisions**

Page 4-15

Mr. McConnell proposed that '**variance**' to be added to the list of Public hearing applications that must be heard before the Planning Board.

The Board agreed that variance should be added to the list of applications that need to be heard at Public hearing.

**Chapter 5 Revisions**

Mr. McConnell gave an outline of the concerns from Mr. Ramsey and read the emails Mr. Ramsey had sent discussing clarification of the new Planning Regulations.

Page 5-7, from Mr. Ramsey's email

- Item number 3 under §5.4.4, '**or engineer**' to be removed from the requirement, only a Professional Land Surveyor can certify a survey plat, comment from Mr. Ramsey.

Mr. Tucker stated that this is consistent with Arkansas code since January 1, 1982 that a professional engineer cannot sign a survey plat.

- Item number 4 under §5.4.4, states that a 'correct legal description of the parent tract' must be provided on the plat, comment from Mr. Ramsey's email.

Mr. Tucker stated that a correct legal description needs to be on the survey, the description is essential for survey accuracy.

Mr. Cole confirmed that the Board is considering a legal description of the entire tract, not just the tract being split.

The Board suspended the Technical Advisory Committee rules to allow public comment in the interest of receiving feedback from the public in attendance. Mr. Curtis stated that in the best interest of the Board, public comment should be allowed.

Public comment:

**Jim Ramsey PLS, 1729 W. Poplar St., Rogers, AR 72758**

**Terry Booth, GIS Mapping Manager Benton County Assessor Office**

Mr. Ramsey asked if the Board is requiring the remainder of the parent tract or the parent tract itself to be legally described on the survey.

Mr. Tucker stated that the Board is looking to know that the parent tract and the tract being split can legally be subdivided.

Mr. Ramsey stated that a legal description of the parent tract is the parent deed associated with the tract.

Mr. Ramsey stated that in his understanding the Planning regulations are being implemented in a way that a tract split with a parent tract over 15 acres does not need to be surveyed, to alleviate the property owner from needing to survey the parent tract.

Mr. Tucker confirmed that in the purposes of platting, this is true.

Mr. Ramsey stated that in addition to the tract being split, a legal description of the remainder of the parent tract must be legally described as well.

Mr. Tucker confirmed.

Mr. Ramsey stated that the requirement should read 'remainder of parent tract' in lieu of a survey of the entire boundary of the parent tract.

Mr. Tucker confirmed.

Mr. Ramsey stated a less and except to the original deed would need to be done to meet this requirement. The less and except to the deed would not match with the original legal survey.

Mr. Tucker asked what the proper way to accurately describe the parent tract would be, so that legal descriptions are not filled with less and excepts between the parent and split tracts.

Mr. Ramsey stated that the only way to accurately describe the remainder is to survey the tract.

Mr. Tucker asked how the tract can be legally described without surveying the entire boundary.

Mr. Booth stated that plat can be legally defined by the deed of record for the parent tract, referencing the parent deed of record on the plat would be sufficient. Putting a 'constructed' legal description is not a good option.

Mr. Homeyer stated that the legal description needs to be accurate, but he understands that if an applicant wants to split 15 acres off of a 500 acre tract they would not want to pay to survey all 500 acres. But without an accurate tie to one of the corners of the property an accurate tract split cannot be accomplished.

Mr. Curtis stated that the intention of this section was to make the tract split process easier for family land transactions.

Mr. Tucker read the section in question:

**"Size of Parent Tract:** When the parent tract of a proposed tract split exceeds fifteen (15) acres, the survey of the parent parcel may be omitted from tract split plat instrument provided the following is located and shown on the plat.

- a. A correct legal description of the parent tract in addition to any other legal descriptions required by the ordinance."

Mr. Ramsey stated that to fix the confusion would be to eliminate 'a' under Size of Parent Tract, so there is no inaccurate legal description on the plat.

Mr. Tucker asked if item 'a' under Size of Parent Tract should read 'remaining tract' rather than 'parent tract.'

Mr. Booth stated that the Assessor wants the description of every tract; the most important information is the deed of record for the tract of land. Mr. Booth would like to see the deed of record referenced on the survey. A less and except will be put in the deed of record for the tract(s) being split from the parent tract.

Mr. Ramsey stated that the deed of record for the tract being split must be referenced on the survey. The deed for the parent tract is already on record.

Mr. Tucker asked if the tract can legally be described by reference.

Mr. Booth confirmed.

Mr. Tucker asked if eliminating item 'a' would solve the confusion.

Mr. Ramsey stated the 'remainder' be added to the first line in §5.4.4 number 4.

**Size of Parent Tract:** When the parent tract of a proposed tract split exceeds fifteen (15) acres, the survey of the *remainder of the* parent parcel may be omitted from tract split plat instrument provided the following is located and shown on the plat.

Mr. Cole asked if a legal description of the parent tract is included in the Planning Regulations elsewhere. If deleting item 'a' would leave no legal description of the parent tract.

Mr. Ramsey stated that a reference to the deed of record needs to be required on the survey.

Mr. Tucker stated that a reference to the record deed be required on the survey plat.

Mr. Curtis confirmed that a reference to the deed of record is made number 4 and the numbers 4 through 12 be renumbered to 5 through 13. Number 4 under §5.4.4 require a reference to the deed of record for the parent tract. Original number 4 would then be number 5, and so on through the list of requirements.

- Item number 9 under §5.4.4, locating the septic lines on a survey plat.

Mr. Tucker stated this is a requirement satisfied by reference. This requirement is in accordance with Arkansas Health Code. In reading the health code, any septic tank/lateral fields predating 1977 is not required to be on the plat.

Ms. Leyva stated that any septic system installed after 1977, the Arkansas Health Department will have information about the system, if it was legally installed.

Mr. Tucker stated that the septic tank should be easily located and the lateral lines are more difficult to locate.

Ms. Leyva stated that there are companies in Arkansas with the ability to locate the lateral lines via scoping or other ways of locating the lateral lines.

Mr. Tucker stated that the septic system must be on the plat, in the regulations the septic effluent cannot discharge onto another property.

Mr. Tucker stated that the alternate field must be on the plot plan, but not the plat, according to Arkansas Health code.

Ms. Leyva stated that the plot plan is the plat.

Mr. Homeyer stated that in these instances when installing a septic system, someone takes a deeded plat and add the septic location to the deed; it is something that does not get recorded.

Mr. Tucker stated that in the Arkansas Health Regulation the alternate field shall be on the plat. Referencing the approximate area of septic fields, approximate location of lateral area if not identifiable, alternate field not provided if predated AHD code, reference the 10 acre exemption are all options to be on the plat.

Mr. Ramsey stated that locating the lateral field is nearly impossible for land surveyors. Surveyors cannot certify the plat without knowing the exact location of the lateral field. Secondly, the PLS license does not cover septic systems. The PLS license is to survey boundaries.

Mr. Curtis stated that the intention of the Planning Regulations, with respect to septic systems, is to make the land owner be proactive in knowing the location of their septic system. The land surveyor is the first person the land owner will contact about a project; the regulations are intended for the surveyor to ask the land owner to acquire the septic information to be recorded on the plat.

Mr. Homeyer asked if the same surveying tactic can be used for septic systems as they are for underground utilities. Surveyors commonly locate underground utility lines by way of surface evidence, then reference that the surveyor is not liable for the exact location of utility lines on the survey.

Mr. Ramsey stated that as the regulation reads, he is responsible for the exact location of the lateral and alternate lines if he is to sign and seal the plat.

Mr. Homeyer stated that as a surveyor, if they are to sign and seal a survey, the exact location must be visible. If the lines are scoped and located, the surveyor still assumes the liability that the location is approximate due to the fact that the lines are not visible to the land surveyor.

Mr. Tucker agrees that the surveyor can note the approximate location of septic systems and should be allowable, to a degree.

Ms. Leyva stated that information about septic systems are available at the Arkansas Health Department

office and can be used to locate the septic systems. This can be a tool for the land surveyor when developing a survey for a client.

Mr. Ramsey stated that if the information is available surveyors can then reference a permit or file from the Health Department on the survey. The location of the septic system will still be approximate location, but being able to reference a file or permit will be useful.

Ms. Leyva stated the septic information can be acquired from the Health Department and electronic copies can be sent to the surveyor.

Mr. Sudduth stated that planning staff needs to have accurate information on the survey. The tax identification is not what planning division needs to accurately locate a property. These items being discussed are minimum requirements to be on a plat, it may be that surveyors cannot fulfill this requirement, but the Board and staff need to have a separate legal instrument that will accurately locate the septic system.

Mr. Tucker stated beyond the plat; setbacks, usability, and other planning issues require the septic information to be known.

Mr. Tucker stated that item number 9 is a restatement of the Arkansas Health Code, how the Board administers this requirement will be the way this discussion will be resolved.

Mr. Curtis stated that the addition of another legal of instrument, if the lateral and alternate lines cannot be located, must be required.

Mr. Tucker stated that the addition of **'extent plotable.'** be included in the 'Existing lateral Line Fields and septic information, Water Wells, and Utility Easements Shown' after the word easement at the end of first sentence.

Board Staff

- Page 5-27

Under Criteria for Administrative Approval, the phrase **'or limited'** be removed to make the criteria more clear.

Mr. Curtis stated that the phrase should be eliminated.

## Chapter 6 Revisions

### Page 6-1

Under heading Development Exempted from site plan review, number one duplex is not defined in Definitions chapter.

Mr. Sudduth stated that the definition from the International Residential Code will define duplex or multifamily dwelling.

Mr. Tucker stated that the intent of the regulation was to allow the construction of a duplex without being heard at public hearing, but if multiple duplexes are constructed without subdividing it is reviewed.

Mr. Homeyer stated that any construction beyond 2 units is a multifamily development. Multiple units on a single piece of land is multifamily, a definition should be added to the regulations, example **'any development with 3 or more dwelling units on one parcel of land.'**

Page 6-7 under Figure 6.1, length of American with Disabilities Act parking stalls be added to the diagram.

## Chapter 7 Revisions

Page 7-11, revising number 3 at the top of the page "Planning staff **'will'** accept a product information sheet."

Page 7-12 under Procedures for Planning Board Review of Telecommunication Facilities, item letter 'c' Notification procedures be changed to **'500 feet'** to correlate with the Site Plan Review requirements.

Page 7-30 under the Exemptions heading, item number one "The use and/or structure shall not exceed **'30'**

days in a calendar year.”

#### **Miscellaneous Revisions**

All measurements to be changed to the same units.

#### **B. Grandfather clause**

Staff asked when the Planning Ordinance can be enforced.

Mr. Tucker stated that the grandfather clause is included in the Ordinance.

Staff asked the Board when the Planning Ordinance can be enforced on non-approved commercial buildings.

Mr. Tucker stated that the Planning Ordinance requires approval for commercial operations; if the development is post-ordinance therefore approval from the Planning Board is required. In the new ordinance, if the applicant developed previously to the new Planning Ordinance the applicant is still required to gain approval from Planning Board.

**Administrative Review:** None

Meeting Adjourned at 7:30pm

**Benton County Planning Board**

## Sign-in Sheet

**Date:**

4/16/14

[illegible]

